

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

YOUNG AMERICA'S FOUNDATION;
BINGHAMTON UNIVERSITY
COLLEGE REPUBLICANS; and REIN
BEY, in her official capacity as President of the
College Republicans of Binghamton
University,

Plaintiffs,

v.

HARVEY STENGER, President of
SUNY-Binghamton, in his official and
individual capacities; BRIAN ROSE, Vice
President for Student Affairs of SUNY-
Binghamton, in his official and individual
capacities; JOHN PELLETIER, Chief of
SUNY-Binghamton UPD, in his official
and individual capacities; and STUDENT
ASSOCIATION OF BINGHAMTON
UNIVERSITY,

Defendants.

**ATTORNEY DECLARATION IN
SUPPORT OF DEFENDANT
PELLETIER'S MOTION FOR
SUMMARY JUDGMENT PURSUANT
TO FRCP 56**

Case No.: 3:20-cv-822-LEK/TWD

I, Molly M. Ryan, Esq., declare as follows:

1. I am an attorney authorized to practice in the State of New York and the United States District Court for the Northern District of New York, and am a partner with the law firm of Goldberg Segalla LLP, attorneys for defendant John Pelletier, former Chief of SUNY-Binghamton UPD, in his official and individual capacities.

2. I am familiar with the pleadings and proceedings in this action, and the matters stated in this declaration.

3. I submit this declaration in support of defendant's motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.

Background on the Parties and Plaintiff Bey's Lack of Standing

4. This action arises from two incidents that occurred on November 14 and 18, 2019 at Binghamton University. The first occurred in the context of a tabling event by College Republicans and Turning Point USA on the campus Spine, which was disrupted by protestors. The second was at economist Arthur Laffer's lecture, which plaintiffs Young America's Foundation and College Republicans co-sponsored and which was also disrupted by protestors. In defendant's motion papers, the events surrounding the November 14, 2019 tabling are referred to as the "Tabling Event," and the events surrounding the November 18, 2019 Arthur Laffer lecture are referred to as the "Laffer Event."

5. The named parties in this action have changed since the outset. Initially the plaintiffs were Young America's Foundation, the Binghamton University College Republicans, and Jon Lizak in his capacity as president of the College Republicans. Lizak stepped down as president in December 2021 and graduated from Binghamton University in May 2022. (Doc. Nos. 208-1, 208-2.). In September 2022, Lizak was arrested for charges related to his participation in the January 6, 2021 insurrection at the US Capitol building, and in May 2023 he was convicted of one offense. (See US District Court for the District of Columbia case *United States of America v. Jon Lizak*, 1:23-cr-00163-CKK at Doc. Nos. 10, 64, 78.) In March 2023, this Court granted Lizak's motion to dismiss Lizak as a plaintiff. (Doc. No. 223, MDO.)

6. Subsequently, the Court granted plaintiffs' motion to amend the complaint to join Rein Bey as a plaintiff in her official capacity as president of the College Republicans. (Doc. No. 261.)

7. However, Rein Bey is no longer registered as a student at Binghamton University and she is no longer the president of the College Republicans. (See Finch declaration.) She

therefore lacks standing to sue. Defendant Pelletier requests that the amended complaint be dismissed as to Bey.

8. On the defendants' side, originally the Progressive Leaders of Tomorrow and Binghamton University College Progressives were amongst the defendants, along with Harvey Stenger, Brian Rose, and John Pelletier. The essence of plaintiffs' original complaint was that all of those defendants engaged in a conspiracy to disrupt and suppress plaintiffs' speech and to enforce a so-called "speech suppression policy" whereby the defendants supposedly conspired to deliberately censor and inhibit "unpopular student speech" by plaintiffs. (Doc. No. 1, Cplt., *see* generally and, e.g., at ¶ 2, 22, 24, 98, 142, 146, 162-179.) The allegations had no merit. The conspiracy claims were dismissed for failure to state a claim and the Progressive Leaders of Tomorrow and Binghamton University College Progressives were dismissed as defendants due to lack of subject matter jurisdiction. (Doc. Nos. 70, 238, and MDOs.)

**Summary of Claims that were Dismissed and Claims that Remain
against Defendant Pelletier**

9. In plaintiffs' original complaint, the claims against defendant Pelletier were Claims 1, 4, 5, and 6. On a previous motion to dismiss, the Court dismissed some of the claims against Pelletier. (Doc. 70, MDO.) Those claims remain dismissed. The dismissed claims are:

- Claim 1 – Individual capacity claim for a First Amendment free speech violation related to the Tabling Event. This was dismissed without prejudice to move to amend if discovery revealed Pelletier's personal involvement. The claim remains dismissed as plaintiffs did not seek to reinstate it when they moved to amend the complaint. (Doc. 245, motion to amend. Doc. 261, MDO.)
- Claim 4 – Conspiracy claims.

- Claim 5 – Conspiracy claims.
- Claim 6 – Individual capacity claim for a Fourteenth Amendment equal protection violation related to the Tabling Event. This was dismissed without prejudice to move to amend if discovery revealed Pelletier’s personal involvement. The claim remains dismissed as plaintiffs did not seek to reinstate it when they moved to amend the complaint. (Doc. 245, motion to amend. Doc. 261, MDO.)

10. The claims that remain against defendant Pelletier are:

- Claim 1 – Official capacity claim seeking declaratory and injunctive relief for a First Amendment free speech violation related to the Tabling Event and the Laffer Event.
- Claim 1 – Individual capacity claim for a First Amendment free speech violation related to the Laffer Event.
- Claim 6 – Official capacity claim seeking declaratory and injunctive relief for a Fourteenth Amendment equal protection violation related to the Tabling Event and the Laffer Event.
- Claim 6 – Individual capacity claim for a Fourteenth Amendment equal protection violation related to the Laffer Event.

Evidence Submitted in Support of the Motion

11. The material facts, with citations to the supporting evidence, are set forth in the accompanying Statement of Material Facts.

12. Per Local Rule 7.1(b), documents that are on file with the Court in this action are not attached as exhibits but rather are referenced to the appropriate docket number.

13. The exhibits attached to this declaration are as follows:

- Exhibit 1 – John Pelletier’s deposition transcript – defendant.
- Exhibit 2 – Joseph Gallagher’s deposition transcript – UPD investigator.
- Exhibit 3 – Steven Faulkner’s deposition transcript – UPD lieutenant.
- Exhibit 4 – Brian Rose’s deposition transcript – defendant.
- Exhibit 5 – Harvey Stenger’s deposition transcript – defendant.
- Exhibit 6 – Timothy Faughnan’s deposition transcript – BU’s Associate VP of Emergency Services.
- Exhibit 7 – Arthur Laffer’s deposition transcript – nonparty.
- Exhibit 8 – Randi Butler’s deposition transcript – nonparty, Laffer’s chief of staff.
- Exhibit 9 – Raj Kannappan’s deposition transcript – plaintiff Young America’s Foundation.
- Exhibit 10 – Matthew Johnson’s deposition transcript – defendant Student Association of Binghamton University, Inc.
- Exhibit 11 – Preston Scagnelli’s deposition transcript – plaintiff College Republicans.
- Exhibit 12 – Lacey Kestecher’s deposition transcript – plaintiff College Republicans.
- Exhibit 13 – John Restuccia’s deposition transcript – plaintiff College Republicans.

- Exhibit 14 – Spencer Haynes’s deposition transcript – plaintiff College Republicans.
- Exhibit 15 – Jon Lizak’s deposition transcript – plaintiff College Republicans.
- Exhibit 16 – Guiseppe Badalamenti’s deposition transcript – plaintiff College Republicans.
- Exhibit 17 – Rein Bey’s deposition transcript – plaintiff College Republicans.
- Exhibit 18 – Kyle Nelson’s deposition transcript – plaintiff College Republicans.
- Exhibit 19 – Logan Blakeslee’s deposition transcript – plaintiff College Republicans.
- Exhibit 20 – Ryan Yarosh’s deposition transcript – BU’s Executive Director of Media & Public Relations.
- Exhibit 21 – Deposition exhibit JP1 – emails regarding Tabling Event.
- Exhibit 22 – Deposition exhibit JP2 – emails regarding protests, groups, Tabling and Laffer Events.
- Exhibit 23 – Deposition exhibits JP3, F2 – UPD reports from Tabling Event.
- Exhibit 24 – Deposition exhibit G5 – YAF emails regarding violence planned for Laffer Event.
- Exhibit 25 – Deposition exhibits G6, F5, BR2, RY2 – emails regarding Laffer Event.
- Exhibit 26 – Deposition exhibit G7 – email regarding PLOT post.
- Exhibit 27 – Deposition exhibit JP6 – emails regarding Laffer Event plans.
- Exhibit 28 – Deposition exhibit F7 – UPD reports from Laffer Event.

- Exhibit 29 – Deposition exhibit F6 – UPD Operational Order for Laffer Event.
- Exhibit 30 – Deposition exhibits JP7-JP10, HS5 – emails with suspect list.
- Exhibit 31 – Deposition exhibit G2 – email and summary of Tabling Event.
- Exhibit 32 – Deposition exhibit G4 – emails regarding Laffer Event plans.
- Exhibit 33 – Deposition exhibit G8 – email regarding suspect list.
- Exhibit 34 – Deposition exhibits G10, F8, 21 – Rose statement after Laffer Event.
- Exhibit 35 – Deposition exhibit F1 – UPD General Order 342.
- Exhibit 36 – Deposition exhibit F3 – email regarding Laffer Event.
- Exhibit 37 – Deposition exhibit F4 – emails regarding Laffer Event.
- Exhibit 38 – Deposition exhibit BR1 – Rose statement after Tabling Event.
- Exhibit 39 – Deposition exhibit BR14 – 8 NYCRR 535.3.
- Exhibit 40 – Deposition exhibit HS1 – Stenger statement after Tabling Event.
- Exhibit 41 – Deposition exhibit 10 – Plaintiffs’ emails regarding Tabling Event.
- Exhibit 42 – Deposition exhibit SA2 – Student Association’s sanctions summary.
- Exhibit 43 – Deposition exhibits SA3; 1 from Kestecher – Reservation Guidelines.
- Exhibit 44 – Deposition exhibit 5 – Reservation Guidelines.
- Exhibit 45 – Deposition exhibit SA5 – Student Association’s email regarding sanctions.
- Exhibit 46 – Deposition exhibit 17 – photo of Tabling Event.

- Exhibit 47 – Deposition exhibit SA4 – Student Association’s email summary of events.
- Exhibit 48 – Deposition exhibit SA7 – Student Association’s email regarding sanctions.
- Exhibit 49 – Deposition exhibit 3 – Room reservations.
- Exhibit 50 – Deposition exhibit 11 – Laffer Event approval.
- Exhibit 51 – BU’s video footage of Tabling Event (there is no audio).
- Exhibit 52 – Deposition exhibit 15 – BU’s video footage of Laffer Event (there is no audio).
- Exhibit 53 – UPD Investigator Joseph T. Gallagher’s declaration.
- Exhibit 54 – BU Asst. VP and Dean of Students Amanda L. Finch’s declaration.

14. Based on the notice of motion, this declaration, the supporting exhibits, the statement of facts, the memorandum of law, and the proceedings and docket in this action, defendant Pelletier requests that summary judgment be granted in his favor and all claims against him in his individual and official capacities be dismissed; the request for punitive damages and injunctive relief be stricken; and Rein Bey be dismissed as a plaintiff.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 24, 2024

/s/ Molly M. Ryan
Molly M. Ryan